

IN THE UNITED STATE DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 3:06-CR-136
	)	(PHILLIPS/SHIRLEY)
JAMES O'DELL,	)	
	)	
Defendant.	)	

**MEMORANDUM AND ORDER**

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the district court as may be appropriate. This criminal action is before the Court on defendant James O'Dell's oral Motion to Continue. On March 13, 2008, the parties came before the Court for a motion hearing and arraignment on the Second Superseding Indictment. Assistant United States Attorney David Lewen appeared on behalf of the government, and Attorney Jonathan Wood appeared on behalf of defendant O'Dell, who was also present.

During the hearing, defense counsel made an oral motion to continue the trial in this matter, currently scheduled for March 26, 2008. As grounds, defense counsel stated that, in light of the Second Superseding Indictment, additional time would be needed to determine whether any additional pretrial motions would be necessary and to prepare for trial. The government does not oppose the defendant's oral motion to continue.

Based upon the arguments of counsel and the agreement of the parties, the Court finds that a continuance of the trial date is necessary, and that the ends of justice served by continuing this matter outweigh the best interest of the public and the defendant in a speedy trial. 18 U.S.C. §

3161(h)(8)(A). The Court finds that the failure to continue this matter would deprive the parties of adequate time to file any motions related to the new charges raised in the Second Superseding Indictment, for the Court to rule on any such motions, and for the parties to prepare for trial. 18 U.S.C. § 3161(h)(1)(F), (J), (8)(B)(iv). The Court finds, and the parties agreed, that this process could not be accomplished before the current March 26, 2008, trial date or in less than approximately four months. The Court finds that if this matter were not continued, a miscarriage of justice would occur. 18 U.S.C. § 3161(h)(8)(B)(I). Accordingly, the Court finds defendant O'Dell's oral motion to continue to be well-taken, the same is hereby **GRANTED**, and the Court **ORDERS** that this matter be continued.

In light of these findings and its continuance of this matter, the Court set a new pretrial conference of **May 20, 2008, at 9:30 a.m.** and a new trial date of **July 22, 2008**. The Court also set a new motion deadline, with respect to Counts Two through Eight of the Second Superseding Indictment, of **April 28, 2008**, with a response deadline of **May 12, 2008**. The Court also finds, and the parties agreed, that all the time between the March 13, 2008, hearing and the new trial date of July 22, 2008, is fully excludable time under the Speedy Trial Act for the reasons set forth herein. See 18 U.S.C. § 3161(h)(1)(F), (J), and (h)(8)(A)-(B).

**IT IS SO ORDERED.**

ENTER:

s/ C. Clifford Shirley, Jr.  
United States Magistrate Judge